

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

LC2006-000406-001 DT

09/29/2006

HON. MARGARET H. DOWNIE

CLERK OF THE COURT
S. Bindenagel
Deputy

STATE OF ARIZONA

CATHERINE A GAUDREAU

v.

JAIME REBECCA MORRONE (001)

MARK J ANDERSEN

REMAND DESK-LCA-CCC
SCOTTSDALE CITY COURT

RECORD APPEAL RULE / REMAND

Lower Court Case No. PR200552666

The Superior Court has jurisdiction over this appeal pursuant to the Arizona Constitution, Article VI, Section 16, and A.R.S. § 12-124(A). It has considered the record of the proceedings from the trial court, exhibits made of record, and the memoranda submitted.

On December 8, 2005, a vehicle owned by Appellant Jaime Rebecca Morrone was photographed by a photo radar installment in the City of Scottsdale as it traveled at 47 mph. The posted speed limit was 35 mph. Appellant was mailed a computer-generated traffic ticket and complaint alleging that she had violated A.R.S. § 28-701(A) – driving at a speed greater than is reasonable and prudent. Appellant filed a motion to dismiss in the Scottsdale City Court – arguing that the computer-generated and signed complaint failed to confer jurisdiction on the trial court. After her motion was denied, the matter proceeded to a hearing, and Appellant was found responsible for the charge. She thereafter filed a timely notice of appeal.

As she did below, Appellant argues that the traffic complaint failed to comply with A.R.S. § 28-1561(A), which provides:

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Uniform traffic complaint forms need not be sworn to if they contain a form of certification by the issuing officer in substance as follows: "I hereby certify that I have reasonable grounds to believe and do believe that the person named herein committed the offense or civil violation described herein contrary to law."

Edward Tiedje, co-custodian of records for Redflex Traffic Systems, Inc.,¹ testified that the computer-generated signature on Appellant's ticket and complaint is that of Redflex co-custodian Bill Harper. Tiedje testified that Harper reviewed the photo radar photographs and compared them to gender and age information obtained from Appellant's automobile registration.² Specifically, Harper determined that the listed gender (female) matched that of the driver and that the date of birth on the registration matched the apparent age of the photographed driver. No one at Redflex had access to Appellant's driver's license photograph prior to issuing the complaint.

Almost one year ago, this court had occasion to consider Redflex' handling of photo radar traffic tickets and complaints in Scottsdale in a case known as *State v. Gillespie*.³ The evidence in the *Gillespie* case reflected that Redflex did not review traffic complaints before they were generated and signed by the computer and made no effort to compare the photo radar photographs to available information about the individual named as the defendant on the citation.⁴ Based on the testimony in this case, it appears that Redflex has changed its practices. There is now some human involvement before photo radar citations are issued. The question now becomes whether Redflex' revised practices are legally sufficient.

As noted in the *Gillespie* decision, our appellate courts have imposed restrictions on the use of computer-generated certifications:

While *Barckley* does suggest that a "pen-and-ink" signature may be superfluous, it is only in circumstances where some human involvement in the certification process can be inferred from the face of the document. Where, as here, the record is barren of facts from which we may infer that the intent to certify is contemporaneous with and unique to the production of the specific record and is

¹ Redflex has been appointed by the Scottsdale Chief of Police as Scottsdale's agent to capture incidents and issue photo radar traffic citations for the city.

² The evidence established that the make and model of the vehicle in the photographs matched the registration information.

³ LC 2005-000597.

⁴ Notwithstanding the City's belated protestations about the *Gillespie* ruling, Redflex' prior practice clearly violated the intent of A.R.S. § 28-1561(A) and led to occasionally absurd consequences, such as female drivers being cited when the photo radar photograph clearly showed a male driver. See, e.g., *State v. Panico*, LC 2005-000815. Such occurrences clearly belied Redflex' sworn statement that the certifier had reasonable grounds to believe that the person named in the complaint committed the offense.

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independent of computer control, additional foundation is required to establish the requisite "human involvement"....

State v. Johnson, 184 Ariz. 521, 911 P.2d 527 (App. 1994).

In the case at bar, Redflex had information about the registered owner of the vehicle. Harper knew that the registered owner was a female named Jaime Rebecca Morrone, whose date of birth was February 14, 1978. Harper compared this information to the photo radar photographs and found what he believed to be a match in terms of gender and age. Redflex' information was admittedly limited and did not yet include Appellant's driver's license photograph.⁵ However, the standard at issue is "reasonable grounds" to believe that the person named in the complaint committed the described civil traffic violation. This is a relatively low threshold. On the facts presented, this court finds that the trial judge did not err in denying Appellant's motion to dismiss.

IT IS ORDERED affirming the finding of responsibility and the fine imposed by the Scottsdale City Court.

IT IS FURTHER ORDERED remanding this matter to the Scottsdale City Court for further appropriate proceedings.

⁵ That photograph was introduced as an exhibit at the civil traffic hearing.
Docket Code 512